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James M. Hull
1190 Interstate Parkway
Augusta, Georgia 30909

May 31, 2012

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

In Re: Complaint No.: MUR #6576

Gentlemen:

Receipt is hereby acknowledged as of May 26, 2012, of the Notification of Complaint filed with the Federal Election Commission by Scott W. Paradise, Campaign Manager for Rick W. Allen for Congress, dated May 12, 2012 (the "Allen Campaign"). Violation #2 of the Complaint filed by the Allen Campaign alleges that (i) the McLeod for Congress Campaign (the "McLeod Campaign") is using more than 1,034 square feet of space, (ii) the average rent price for comparable office space in the same area of Augusta is approximately \$11.54 per square foot per year, and so the fair market value of the subject 6,674 square foot building is more than \$6,000 per month, and (iii) based on information available in public records, the building is owned by a limited liability company. I understand the disclosure filed by the McLeod Campaign lists the area of the building being used as 1,034 square feet and the abated license fee/contribution in kind as \$250 per month from each of the four owners for a total of \$1,000 per month.

This response is filed in response to allegations that my partners and I provided the McLeod Campaign with lease space at less than fair market value. For the reasons set forth below, this allegation is false and is based upon a misunderstanding of the nature of the space leased. The McLeod Campaign is paying full market value for the space it is leasing. I was the individual who made the decision to lease the space in question and I was the individual who concluded that the lease paid by the McLeod Campaign for unoccupied, and at the time, inhabitable space was at fair market value and in the interest of our company as landlord in the current economic environment. The decision to lease the space in question to the McLeod Campaign was NOT made in an effort to provide the McLeod Campaign with unauthorized support. Ironically, I had been (until now at least) a supporter of the Allen Campaign. The McLeod Campaign currently pays fair market value for the space it is occupying.

Please be advised of the following pertinent facts regarding the subject office building:

1. The premises known as 3632 Wheeler Road, Augusta, Georgia, consist of approximately 7,000 square feet of professional office space formerly utilized as law offices (approximately 3,500 square feet) and offices for a real estate development company (balance of space).

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2. The building is owned by four tenants in common – James M. Hull, Barry L. Storey Family Investments, LLP (Barry L. Storey is the president of the general partner entity and is entitled to receive all rents from its assets), Bernard S. Dunstan and the J.R. Dunstan Family Limited Liability Company as successor to J. Richard Dunstan (Margaret Dunstan is the widow of Richard Dunstan and is the member manager of the limited liability company and is entitled to receive all rents from its assets). The building is not owned by a single limited liability company as alleged, and the Richmond County Tax Assessor's GIS website lists the book and page for all of the deeds related to the property since its acquisition in 1991 from State Farm. A screen shot of the Richmond County Tax Assessor's web page is attached.
3. Upon inquiry by Wright McLeod, I proposed to the other owners a lease of a portion of the subject property to the McLeod Campaign. The McLeod Campaign would occupy the facility on an "as is" – "where is" basis. The subject property has been vacant for a number of years and is currently in poor condition. The owners have been actively marketing the property for rental for more than four years without success. There is a large excess of rental property available in this area of Wheeler Road in Augusta, Georgia.
4. The McLeod Campaign must have reported that they are using 1,034 square feet of the building, because the Allen complaint alleges that they are using more than 1,034 square feet. I have no knowledge that the McLeod Campaign is using any more than 1,034 square feet of the building. The building is divided into several distinct areas, has three separate and distinct exterior entrances and it would be very easy to use only a portion of the building. The Allen complaint presented no evidence that the McLeod Campaign was using more than 1,034 square feet, and I would have to assume that in fact the McLeod Campaign is using only 1,034 square feet of the building.
5. The building on the subject property was experiencing roof, HVAC, and flooring problems requiring attention and repair. The McLeod Campaign indicated they would only be using a portion of the property but were willing to make the needed repairs and pay all utilities. This obviously would reduce the owners' out-of-pocket cost for the utilities and repairs. The McLeod Campaign pays the operating costs of the entire building (not just the portion of the building occupied by the McLeod Campaign) except for the annual expenses of ad valorem taxes and insurance.
6. Having dealt with many empty facilities over a 35-year real estate career, I reasoned that having a tenant occupy the subject building would not only arrest the on-going physical decline of the building due to the roof, HVAC, and other repairs necessary for the McLeod

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Campaign to actually occupy the building, but the McLeod Campaign's occupancy would stem the psychological stigma that is attached to a building with a long history of vacancy.

With respect to the value of the building, the evidence presented in the Allen complaint is of such little worth it could not lead to a conclusion of value. The Allen complainant presented two advertisements for office space as his evidence. One advertisement is for a 3,500 square foot portion of a "Class B" building with an annual gross rental (taxes, insurance, garbage are included) "asking" rental amount of \$10.99 per square foot per year. The other advertisement is a newly renovated portion of a "Class A" building with an annual "asking" rental amount of \$12.00 per square foot per year. The subject property is neither a "Class A" nor a "Class B" office building, it has not been remodeled and it is not comparable. Further, the advertisers' "asking" rents are no evidence of the actual signed lease rental rates for similar buildings in the area. Nonetheless, from these two advertisements, the Allen complainant has concluded and reported to the FEC that the average fair market rental in the area is \$11.49 per square foot per year, and the fair market rental of the entire 8,674 square foot building is more than \$6,000 per month. A quick review of Loop Net (an online commercial multi listing service) reflects "asking" rental amount for three office facilities located nearby the subject of \$8.00 psf per year, \$8.00 psf per year and \$9.00 psf per year respectively. Copies of the Loop Net listings (including photographs) for nearby facilities are attached to this Response.

My partners and I own, operate and are actively engaging in the leasing of more than 12.5 million square feet of retail/office/service real estate, and we do not "give away" our property. The subject lease was an arm's length transaction which I determined to be in the landlord's best economic interest. I am a trained real estate appraiser (see Curriculum Vitae attached), and I have actively practiced fee appraisal activities on the land and buildings we own and have contemplated for acquisition for more than 35 years. I have been qualified on numerous occasions as an *expert witness* to render my opinion of value of real estate in courts in North Carolina, South Carolina and Georgia.

An investigation of the market rent of the subject property does not start with a Loop Net listing of the price nearby property owners would like to receive in rent for their buildings.

The first step is to understand the nature of the building. The subject building was originally built and used as a State Farm Claims Center. It had two pull-through garages so the claims adjuster could examine the cars inside the building. After acquiring the building, the ownership group remodeled parts of the building at different times for occupancy by the real estate operating firm owned by Barry Storey and me, and for occupancy by Barney and

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Richard Dunstan's law firm. The subject building was never built or intended for office space as we configured it. In the period during which my firm occupied the building, the number of employees occupying the building increased and, as a result, we divided and redivided spaces to create more but smaller offices wherever we could. We even converted a former mop sink closet into an office. For a variety of reasons including the foregoing, the subject building suffers from significant and material functional obsolescence (due to it being "chopped up" and not suitable to a wide variety of uses [e.g.: odd sized spaces with no scheme or usability for many types of prospective tenants or users]). Buildings that suffer from functional obsolescence are often termed and thought of as second generation space.

The cost to reconfigure the building for a typical office arrangement is probably higher than the cost to raze and replace the building. Due to the current condition and configuration of the building, it would be considered "fourth generation" space, and as such, it has not attracted a tenant or user for over five years despite being actively marketed by my firm.

A similar building (a picture and aerial view of the building are attached) located a block up Wheeler Road from the subject building was demolished in the last month, and the land is being redeveloped for the construction of a McDonald's restaurant. The fact that a similar office building one block away was torn down rather than continued in use as an office building is a solid indication that this type of building does not inherently reflect or add much to the underlying value of the land. Due to the unusual functional obsolescence of the subject building and adhering to the real estate appraisal principle of "consistent use", the subject building is viewed as contributing little to the market value of the subject property and, in fact, should properly be viewed as a negative value equal to the cost of demolition.

The local tax assessor valued the subject property's land at \$270,504 and the subject building at \$311,637 for a total estimate of market value of \$582,141. The ownership group asserted that the tax assessor over-valued the subject property and has filed appeals of the tax assessor's value in each of the last three years. Even if the tax assessor's valuation was stipulated for argument purposes and there was no consideration or deduction from the assessor's value for unusual functional obsolescence, a reasonable investment return on that value would be six percent (6%) per annum or an annual rental of \$34,928 for the entire building. The land is in a good location, and as happened with the nearby McDonald's location, there is a chance that a user will want the land for redevelopment at a price acceptable to the landlord to sell the property and be done with it. To retain the option to sell or to redevelop the subject property or to lease it if a bona fide tenant surfaces, this landlord requires in the instant lease the ongoing right to terminate the lease on 60 days' notice. Given the repairs required to the building and the landlord's requirement that it

maintain the ongoing right to terminate the lease with notice to the tenant, the landlord would not expect a six percent per annum return as rent on this building. It would be appropriate and reasonable to adjust downward the optimum \$34,928 annual rental for the entire building by a 50% factor in consideration of the termination right reserved by the landlord and the unusual functional obsolescence and existing deferred maintenance of the subject building resulting in an indicated fair market rental for the entire building under a best case scenario (i.e.: finding an interested tenant or buyer within a reasonable three month marketing period when the property has sat vacant for over five years while being actively marketed by a firm that operates over 12.5 million square feet of commercial buildings) of \$17,464 per annum. However and as discussed above, the McLeod Campaign only uses approximately 15% of the space. Adjusting the fair market annual rental of \$17,464 for the entire building by the 15% of the space being used results in an indicated annual fair market rental of \$2,619 or \$218 per month from the McLeod Campaign for the space it uses.

It is difficult to obtain from market comparables or sales a "paired sales" metric (e.g.: comparing similar properties, one having a landlord termination right and the other not having a termination right) to empirically demonstrate the impact on market rent of the landlord reserving a termination right. However, using common sense, one knows intuitively that having the unfettered right to terminate is of great benefit to the landlord and of corresponding detriment to the tenant (and would reduce the market rental obtainable) if the lease provides the landlord can continue to market its property for sale or lease during the pendency of the "lease" and, at any time and from time to time, if a better offer comes along, kick out the tenant and terminate the lease without ramification. This benefit/detriment must be reflected by a significant downward adjustment in any calculation of "market rent".

7. For those reasons, among others, I believed that it was in the ownership group's best economic interest to trade a partial occupancy of the building to the McLeod Campaign in exchange for the McLeod Campaign making, at its sole cost, improvements to the building, paying utilities, and occupying same.
8. I concluded that the consideration for the lease paid by the McLeod Campaign to the Landlord of making repairs, paying operating costs, and actually occupying the facility was a "market" consideration or rental for the space the McLeod Campaign was receiving. The McLeod Campaign was taking all the risk of another tenant's interest surfacing in the building resulting in the McLeod Campaign's occupancy being terminated AFTER the McLeod Campaign expended its funds and "sweat equity" to make the subject building habitable.

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9. My firm has used this same technique with retail tenants located in our shopping centers many times in the past. It is common in today's real estate world where there is a significant overhang of vacant buildings to covet "occupancy" and for landlords to pursue low initial rental to achieve the greater goal of demonstrating the viability of this type of property.

Please call me at _____ to discuss or let me know any questions you have about the valuation of the property, and thank you for your help.

Very truly yours,



James M. Hull

JMH/lau
Enclosures

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